

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

2012 OCT 22 AM 11:18

CLERK *pw*
SO. DIST. OF GA.

HENRY L. LESTER,

Plaintiff,

v.

CIVIL ACTION NO.: CV612-079

LYNN M. ANDERSON, Sheriff;
DR. POPE; JOHN STATER;
and Nurse WINSTON,

Defendants.

ORDER

Plaintiff Henry L. Lester ("Plaintiff") filed Objections to the Magistrate Judge's Report dated September 28, 2012, which recommended that Plaintiff's Complaint be dismissed and that Plaintiff be required to resubmit his Complaint along with the full filing fee if he wishes to proceed with this action. After an independent and *de novo* review of the record, the undersigned concurs with the Magistrate Judge's Report and Recommendation.

The Magistrate Judge correctly determined that Plaintiff has brought at least three civil actions which were dismissed and count as strikes under 28 U.S.C. § 1915(g), which states that a prisoner shall not bring a civil action without repaying the entire filing fee "if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." *Id.*; see also Rivera v. Allin, 144 F.3d 719, 723 (11th Cir. 1998). The

Magistrate Judge also correctly determined that Plaintiff has not shown that he was in imminent danger of serious physical injury at the time he filed his Complaint or at any other time.

In his Objections, Plaintiff re-alleges that he is not receiving adequate medical attention for his "excruciating pain's [sic] and migraine's [sic]." (Doc. No. 10, p. 2). Plaintiff asserts that he is in "on going [i]mmient [sic] [d]anger of serious physical [i]njury or [d]eath" because "has serious [m]edical problem's [sic]" which Dr. Pope, a general practitioner, is not qualified to handle and because Dr. Pope will not "go beyond [j]ail [p]olicy" to treat him. (Doc. No. 10, p. 3). Plaintiff alleges that jail policy mandates that prisoners receive medical treatment only twice per day and that he needs treatment more often. (Doc. No. 10, p. 2).

Plaintiff has not shown that he was in imminent danger of serious physical injury at the time he filed his Complaint or at any other time. Plaintiff's Objections to the Magistrate Judge's Report and Recommendation are without merit and are **overruled**. The Report and Recommendation of the Magistrate Judge is adopted as the Opinion of the Court. Plaintiff's Complaint is **DISMISSED**. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 22 day of Oct, 2012.



B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA